



<NOTICE>

<PREAMB>

BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2008-0119]

Implementation of Revised Lacey Act Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food, Conservation, and Energy Act of 2008 amended the Lacey Act to provide, among other things, that importers submit a declaration at the time of importation for certain plants and plant products. Enforcement of the declaration requirement began on April 1, 2009, and products requiring a declaration are being phased-in. The purpose of this notice is to inform the public of another phase of the Federal Government's enforcement schedule.

DATES: We will consider all comments that we receive on or before [INSERT DATE 60

DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to

<http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2008-0119, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Parul Patel, Senior Agriculturalist, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737-1231; (301) 851-2351.

SUPPLEMENTARY INFORMATION

Background

The Lacey Act (16 U.S.C. 3371 et seq.), first enacted in 1900 and significantly amended in 1981, is the United States' oldest wildlife protection statute. The Act combats trafficking in illegally taken wildlife, fish, and plants. The Food, Conservation, and Energy Act of 2008 amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices). As amended, the Lacey Act makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken in violation of the laws of a U.S. State or any foreign law that protects plants. The Lacey Act also makes it unlawful to make or submit any false record, account, or label for, or any false identification of, any plant.

In addition, Section 3 of the Lacey Act, as amended (16 U.S.C. 3372), makes it unlawful to import certain plants and plant products without an import declaration. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from where the plant was harvested. For paper and paperboard products containing recycled content, the declaration also must include the average percent of recycled content without regard for species or country of harvest. Currently, enforcement of the declaration requirement is being phased in, as described in two notices we published in the Federal Register,¹ the first on February 3, 2009 (74 FR 5911-5913, Docket No. APHIS-2008-0119) and the second on September 2, 2009 (74 FR 45415-45418, Docket No. APHIS-2008-0119).

In our February 2009 notice, we committed to providing affected individuals and industry with at least 6 months' notice for any products that would be added to the phase-in schedule. The phased-in enforcement schedule began April 1, 2009. The most recent phase (IV) began on April 1, 2010. The enforcement schedule is available on the Animal and Plant Health Inspection Service (APHIS) Web site at http://www.aphis.usda.gov/plant_health/lacey_act/. We continue to consider the applicability of the declaration requirement to products not included in the current phase-in schedule and we invite public comment on how the declaration requirement should be enforced as to these products.

Phase V of the enforcement schedule, which would begin on August 6, 2015. is described below. We invite public comment on the products covered under this phase of the plan, as well as on whether any additional Harmonized Tariff Schedule (HTS) chapters should be included in

¹ To view these notices and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0119>.

the current phase-in schedule. Should there be additions to phase V, we intend to provide at least 6 months' notice to persons and industries affected by those changes to facilitate compliance with the new requirements. Changes will be announced in the Federal Register.

Ch. 44 Headings (wood & articles of wood)

- 4416003010--new casks, barrels, and parts of wood
- 4416003020--used assembled casks of wood
- 4416003030--used unassembled casks of wood
- 4416006010--new barrel staves of wood
- 4416006020--new barrel hoops of softwood
- 4416006030--new tight barrelheads of wood
- 4416006040--used barrels staves of softwood
- 4416006050--used hoops, tight barrelheads of softwood
- 4416009020--new other casks, barrels, wood
- 4416009040--used other cooper goods, wood

Ch. 82 Headings (tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal)

- 8211926000--hunting knives with wood handles
- 8215992400--table barbeque forks with wood handles

Ch. 94 Headings (furniture, etc.)

- 9401612010--upholstered teak chair, household
- 9401612030--upholstered teak chairs, other
- 9401901500--parts of bent-wood seats

- 9403304000--bent-wood office furniture
- 9403404000--bent-wood kitchen furniture
- 9403504000--bent-wood bedroom furniture
- 9403604000--other bent-wood furniture

Ch. 96 Headings (miscellaneous manufactured articles)

- 9614002100--rough wood blocks for smoking pipe manufacture

Additional Information

Several commenters on our earlier notices contended that identifying composite and recycled or reused materials (e.g., medium density fiberboard, particleboard, and scrap wood) to the genus and/or species level would be difficult and in some cases impossible. These commenters asked that we consider describing a level at which the declaration requirement does not apply for minimal amounts of unidentifiable plant materials in such products. The commenters also asked that we describe a level at which the declaration requirement does not apply for minimal amounts of non-listed (i.e., not of conservation concern) plant materials contained in an otherwise non-plant product, such as wooden buttons on a shirt. Some commenters referred to this as a de minimis exception from the declaration requirement. We are in the process of developing a proposal to establish exceptions from the declaration requirement for composite materials and products that contain a minimal amount of plant material. Upon completion of the proposal, we will publish it in the Federal Register for public comment.

APHIS will continue to provide the latest information regarding the Lacey Act on our Web site, http://www.aphis.usda.gov/plant_health/lacey_act/. The Web site currently contains the Lacey Act, as amended; a slideshow covering background and context, requirements, commodities and products covered, information on prohibitions, and the current status of

implementation of the declaration requirement of the Lacey Act; frequently asked questions; the phase-in implementation plan; a link to the Lacey Act Web Governance System (LAWGS); and the paper declaration form. The Web site will be updated as new materials become available. We encourage persons interested in receiving timely updates on APHIS' Lacey Act efforts to register for our stakeholder registry at <https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new/> and select “Lacey Act Declaration” as a topic of interest.

Done in Washington, DC, this 2nd day of February 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015-02403 Filed 02/05/2015 at 8:45 am; Publication Date: 02/06/2015]